

REMARKS

Claims 1, 21, and 28 have been amended, and Claims 2, 16-20, 24, 43, and 44 have been cancelled without prejudice. Claims 1, 3-15, 21-23, and 28-42 are now pending in this application. The claim amendments are supported by, for example, Figures 1-2, paragraphs [0054], [0058], [0061]-[0063], [0066]-[0067], [0084], [0099], and [0139], of the publication of the present application and previous Claim 1. Applicant respectfully requests the entry of the amendments and reconsideration of the application in view of the amendments and the remarks set forth below.

Discussion of Rejection of Claims under 35 U.S.C. § 102(e)

Independent Claims 1, 21, and 28 were rejected under 35 U.S.C. § 102(e) as being anticipated by Walton (US 2002/0154705). In response, independent Claims 1, 21, and 28 have been amended.

Rationale of 35 U.S.C. §102

"For a prior art reference to anticipate a claim under 35 U.S.C. §102, every element of the claimed invention must be identically shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 850 F.ed 675, 677, 7 USPQ 2d 1315, 1317 (Fed. Cir. 1988)

Discussion of Patentability of Pending Claims

Walton neither discloses nor suggests "transmitting, simultaneously to the plurality of receiving terminals, with said at least one spatial diversity device said inverse subband processed combined data signals; and

simultaneously on each of the plurality of receiving terminals:

receiving data signals the spatial diversity receiving device of the receiving terminal, said received data signals being at least a function of said inverse subband processing of said combined data signals" as recited in amended Claim 1.

Walton relates to a communication system that can concurrently support a number of transmissions of various types (e.g., control, voice, broadcast, data, and so son) that may have disparate requirements. Figures 3 and 6 of Walton describes a communication system in which a transmitter with multiple antennas communicates with a receiver with multiple antennas.

Though paragraph [0035] of Walton states that the transmitter may communicate with a number of receiver units, no further detail is given as to such communication.

Paragraph [0058] states that the use of the MIMO communication mode may be applied to a specific user (e.g., a data user) and concurrently use of the diversity communications mode may be applied to another specific user (e.g., a voice user) on a different sub-channel. In other words, two users on the same user terminal may use different communication mode. Paragraph [0058] does not relate to using two user terminals.

In rejecting Claim 1, the Examiner interpreted the beam steering concept mentioned in paragraphs [0037] and [0075] of Walton as corresponding to another feature of Claim 1, i.e., "said determining being designed such that at least one spatial diversity device of the receiving user terminals only receives data sub-signals being specific for the corresponding receiving user terminal and having interference between at least two streams of the plurality of streams of sub-user data sub-signals". However, the beam steering concept mentioned in Walton requires that transmission by at least two antennas of a transmitter results in a directed beam towards a single receiving terminal. See paragraph [0037] of Walton (stating that "transmit up to three beams to three different sections of a coverage area from the same antenna array. Thus, the three beams may be viewed as three transmissions from three antennas). Therefore, Walton does not teach "transmitting, simultaneously to the plurality of receiving terminals, with said at least one spatial diversity device said inverse subband processed combined data signals" as recited in Claim 1.

Accordingly, Claim 1 is not anticipated by Walton. Further, none of the applied prior art teaches this feature. Applicant respectfully submits that Claim 1 is allowable over the applied prior art. Withdrawal of the rejection is respectfully requested.

Each of amended Claims 21 and 28 recites a similar feature as discussed above with regard to Claim 1. Applicant respectfully submits that, for the same reason stated above, these claims are allowable over the applied prior art. Withdrawal of the rejection is respectfully requested.

Dependent Claims

Claims 1, 3-15, 21-23, and 28-42 are now pending in this application. Claims 2, 3-15, 22, 23, and 29-42 are dependent either directly or indirectly on the above-discussed independent

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Claims 1, 21, and 28. Although not separately argued, Applicant does not necessarily agree with the rejections or characterizations of the prior art made by the Examiner. Applicant respectfully submits that pursuant to 35 U.S.C. § 112, ¶4, the dependent claims incorporate by reference all the limitations of the claim to which they refer and include their own patentable features, and are therefore in condition for allowance. Therefore, Applicant respectfully requests the withdrawal of all claim rejections and prompt allowance of the claims.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

In view of Applicant's remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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Respectfully submitted,

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